

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Mittal, Gaurav	Confirmation No.:	9973
Appl. No.:	09/918,394	Group Art Unit:	2618
Filed:	July 30, 2001	Examiner:	Quochien B. Vuong
For:	APPARATUS AND ASSOCIATED METHOD FOR PROVIDING AN OPERATION PARAMETER TO A MOBILE STATION OF A RADIO COMMUNICATION STATION		

Filed Via USPTO E-Filing

Attention: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(a)**

Sir:

The present application went abandoned for failure to respond to the Office Action of November 28, 2006. Accordingly, a Notice of Abandonment was issued on June 29, 2007. However, Applicants respectfully submit that the delay in responding to the Office Action was unavoidable due to an error of the Office in connection with the present application. In particular, Applicant filed papers changing the correspondence address, but the currently outstanding Office Action was mailed to the wrong address and was not received by Applicant's attorneys. Specifically, Applicant filed a paper revoking the prior Power of Attorney and establishing Power of Attorney and a new correspondence address with Applicant's present attorneys on October 27, 2006. Despite the fact that the correspondence address should have been changed, the outstanding Office Action was mailed to the prior address on November 28, 2006. Similarly, the Notice of Abandonment that was issued on June 29, 2007 was also mailed to the prior address and was not received by Applicant's attorneys. Of note, the Notice was returned undelivered from the prior address. Accordingly, Applicant's attorneys were never aware of either the outstanding Office Action or the Notice of Abandonment until a routine check due to extensive delay revealed the existence of the present situation.

Applicant's attorneys promptly notified the Applicant and provided a proposal for reviving the application and responding to the Office Action. Applicant's attorneys have since received instructions to proceed with revival of the present application and have submitted a response along with this petition. As such, Applicant respectfully requests revival of the present application in accordance with the Petition for Revival provided herewith since the entire period of delay in responding has been unavoidable.

Applicant's submit herewith as evidence the following documents:

- 1) a copy of a paper revoking the prior Power of Attorney and establishing Power of Attorney and a new correspondence address with Applicant's present attorneys on October 27, 2006, which was retrieved from PAIR on December 19, 2007.
- 2) a copy of the Office Action of November 28, 2006, which was retrieved from PAIR on December 19, 2007 and indicates the incorrect correspondence address.
- 3) a copy of the Notice of Abandonment that was issued on June 29, 2007, which was retrieved from PAIR on December 19, 2007 and indicates the incorrect correspondence address.

Prior to discovery of the Notice of Abandonment, Applicant was unaware of the purported abandonment of the application. Accordingly, as shown by the evidence above, the entire delay in responding to the Office Action and the Notice of Abandonment was unavoidable.

For the petition fee pursuant to 37 C.F.R. § 1.17(b)(1), and any other fee that is required for consideration of this Petition, the Commissioner is hereby authorized to charge Deposit Account No. 16-0605. Moreover, since the present application was filed after June 8, 1995, no terminal disclaimer is required.

Respectfully submitted,



Chad L. Thorson
Registration No. 55,675

In re: Mittal, Gaurav.
Appl. No.: 09/918,394
Filing Date: July 30, 2001
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Customer No. 00826

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LEGAL02/30643523v1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Mittal, Gaurav Group Art Unit: 2618
Appl. No.: 09/918,394 Examiner Name: Quochien B. Vuong
Filed: July 30, 2001 Confirmation No.: 9973
For: APPARATUS AND ASSOCIATED METHOD FOR PROVIDING AN OPERATION
PARAMETER TO A MOBILE STATION OF A RADIO COMMUNICATION STATION

Filed Via USPTO E-Filing

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REVOCATION OF POWER OF ATTORNEY
AND NEW POWER OF ATTORNEY BY ASSIGNEE**

Assignee hereby revokes all powers of attorney previously granted with respect to the above-identified patent application, and appoints the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and directs that all correspondence be addressed to that Customer Number:

Customer Number 00826, and
Wayne DeMello – Reg. No. 48,601
Arjun Krishnan - Reg. No. 55,347
Federico Fraccaroli – Reg. No. 50,011
Gary Savitt – Reg. No. 44,351
Steven Shaw – Reg. No. 39,368

with full power of substitution and revocation to transact all business in the Patent and Trademark Office in connection therewith.

Please direct telephone calls to the attention of:

Guy R. Gosnell
Registration No. 34,610
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

Assignee hereby elects under 37 C.F.R. § 3.71 to prosecute this patent application and certifies that it is the assignee of the entire right, title, and interest in the patent application identified above by virtue of:

An assignment from the inventors of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 012396, Frame 0290.

☐ Copies of assignments or other documents in the chain of title are attached.

Revocation and New Power of Attorney

By Assignee

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The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the Assignee.

NOKIA CORPORATION

(Nokia Mobile Phones Limited, the Assignee of Record of this application, was an auxiliary trade name of Nokia Corporation and has merged into Nokia Corporation)

By:


Sami Ensio Saru

Title: IPR External Associates Manager

Date:

9 January 2006

CUSTOMER NO. 00826

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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,394	07/30/2001	Gaurav Mittal	NC25896	9973

30973 7590 11/28/2006

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5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

EXAMINER

VUONG, QUOCHIE B

ART UNIT	PAPER NUMBER
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2618

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,394

Applicant(s)

MITTAL, GAURAV

Examiner

Quochien B. Vuong

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-11, 14, 15, 19-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 7-11, 14, 15, 19-22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/27/2006 has been entered.

Claim Rejections - 35 USC § 112

2. Claims 2-4, 7-11, 14, 15, 19-22, and 24-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Applicant cites page 11, lines 4-8 and page 6, lines 7-9 of the specification for supporting the newly added limitation "establishing a direct data call connection directly with the mobile station ***independent of an input from a user of the mobile station***" in claims 21, 24, 26, and 28. However, the specification does not mention anything about the user of the mobile station and does not rule out any involvement of the user, therefore, the specification does not explicitly disclose "establishing a direct data call connection directly with the mobile station ***independent of an input from a***

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user of the mobile station." The now canceled claim 23 did recite "a data call initiator embodied at the mobile station and operable ***responsive to detection of acceptance by the mobile station of the data-request message, said data call initiator for initiating a data connection with the network node to download the first mobile-station operational parameter***" which requires the involvement of the user before initiating a data connection with the mobile station.

For the reasons above, the examiner assumes that the new matter is removed from claims 21, 24, 26, and 28; and the following rejections are still applied.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 7-11, 14, 15, 19-22, and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanttila et al. (US 5,794,142) in view of Hansson (U.S. 6,023,620).

Regarding claims 21 and 24, Vanttila (figure 2) discloses an apparatus and method for a network node of a radio communication system having a network part to which the network node is coupled, mobile-station operational parameters available for downloading stored at the network node, said apparatus for facilitating downloading of at least a first mobile-station operational parameter, said apparatus comprising: a

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network-positioned download parameter initiation signal generator that generates an initiation signal that initiates a request for downloading of the first mobile-station operational parameter (see column 3, lines 9-21; column 7, lines 53-57); and a network-positioned data call connector operable responsive to acceptance of the request initiated by the initiation signal generated by said network-positioned download parameter initiation signal generator, said network-positioned data call connector for establishing a data call connection with the mobile station, the data call connection, once formed, for downloading the at least the first mobile-station operational parameter, the first mobile-station operational parameter used pursuant to subsequent communications (column 5, lines 13-24; and column 7, lines 53-67). Vanttila et al. do not specifically disclose the data download with the data connection directly between the mobile station and the server. However, Hansson discloses after receiving a response from a mobile station, the server downloading data to the mobile station through a data connection directly between the mobile station and the server (column 3, line 61 – column 4, line 11). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the teaching of Hansson to the data call initiator of Vanttila et al. for directly downloading the revising value from the server to the mobile station without using the SMS as an option for one to select how to downloading the data from the server to the mobile station (as suggested by Hansson, column 4, lines 7-26).

As to claims 22 and 25, Vanttila et al. disclose the apparatus and method further comprising a download-parameter request signal generator to which the initiation signal

is delivered, said download-parameter request signal generator for generating a data-message request that forms the request for downloading (see column 3, lines 9-21; column 5, lines 13-24; column 7, lines 53-63; and figure 5).

As to claims 2 and 14, Vanttila et al. disclose that the radio communication system provides for SMS (Short Message Service) message communication, wherein the data message service center comprises an SMS service center, and wherein the download-parameter request signal generator is positioned at the SMS service center (see column 3, lines 56-65).

As to claim 3, Vanttila et al. disclose that the data-message request generated by the download-parameter request signal generator comprises an SMS message for communication to the mobile station center (see column 3, lines 52-57; and figure 2).

As to claims 4 and 15, Vanttila et al. disclose a data message request detector coupled to receive indications of the data message request generated by the download-parameter request signal generator, the data message request detector for detecting the data message request requesting the initiating of the downloading (see column 3, lines 9-21, 52-57).

As to claim 7, Vanttila et al. disclose an operational parameter value provider (figure 2, 36a) coupled to the data call connector, the operational parameter value provider for providing the value of the at least the first operational parameter to the mobile station subsequent to completion of the data call between the node-device and the mobile station (see column 7, lines 60-64; also see column 6; lines 33-35).

As to claim 8, Vanttila et al. and Hansson disclose the apparatus of claim 7 above; in addition, Hansson discloses a data call status reporter operable at least responsive to successful downloading of the value of the at least the first operational parameter provided to the mobile station by the operational parameter value provider to report the successful downloading of the value to the mobile station (see column 3, lines 5-24; column 4, lines 50-54).

As to claims 9 and 19, Hansson discloses that the data call status reporter further determines whether the downloading of the value of the at least the first operational parameter to the mobile station is successful (see column 3, lines 5-24; column 4, lines 50-54).

As to claims 10 and 20, Hansson discloses that the data call connector further terminates the data call connection subsequent to the report made by the data call status reporter (see column 4, lines 50-54).

As to claim 11, Vanttila et al. disclose authenticating the mobile station prior to completion of the data call between the node-device and the mobile station (see column 6, lines 25-32).

Regarding claims 26 and 28, Vanttila (figure 2) discloses an apparatus and method for facilitating downloading of at least a first mobile-station operational parameter in a radio communication system, said apparatus comprising a network part comprising: a download parameter initiation signal generator for generating an initiation signal that initiates a request for downloading of the first mobile-station operational parameter (see column 3, lines 9-21; column 7, lines 53-57); and a data call connector

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responsive to acceptance of the request initiated by the initiation signal generated by said download parameter initiation signal generator, said data call connector for establishing a data call connection in order to download the at least the first mobile-station operational parameter to the mobile-station for use by the mobile-station during subsequent communications; and a network node comprising a download-parameter request signal generator for receiving the initiation signal, said download-parameter request signal generator for transmitting a data-message request to the mobile-station to notify the mobile-station that at least the first mobile-station operational parameter is available upon request for downloading (column 5, lines 13-24; and column 7, lines 53-67). Vanttila et al. do not specifically disclose the data download with the data connection directly between the mobile station and the server. However, Hansson discloses after receiving a response from a mobile station, the server downloading data to the mobile station through a data connection directly between the mobile station and the server (column 3, line 61 – column 4, line 11). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the teaching of Hansson to the data call connector of Vanttila et al. for directly downloading the revising value from the server to the mobile station without using the SMS as an option for one to select how to downloading the data from the server to the mobile station (as suggested by Hansson, column 4, lines 7-26).

As to claims 27 and 29, Vanttila et al. disclose wherein said download-parameter request signal generator is configured to transmit the data-message request as a Short Message Service (SMS) message to the mobile-station (see column 3, lines 56-65).

Response to Arguments

5. Applicant's arguments filed 10/27/2006 have been fully considered but they are not persuasive.

Regarding claims 21, 24, 26, and 28, Applicant argues that Vanttila et al. and Hansson fail to disclose "establishing a direct data call connection directly with the mobile station independent of an input from a user of the mobile station". However, since that limitation introduces new matter and is rejected under 35 U.S.C. 112, first paragraph (see rejection above).

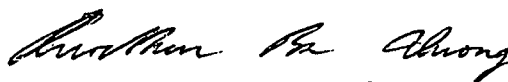
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B. Vuong whose telephone number is (571) 272-7902. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



QUOCHIE B. VUONG
PRIMARY EXAMINER

Quochien B. Vuong
Nov. 21, 2006.



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,394	07/30/2001	Gaurav Mittal	NC25896	9973
30973 7590 06/29/2007 SCHEEF & STONE, L.L.P. 5956 SHERRY LANE SUITE 1400 DALLAS, TX 75225			EXAMINER VUONG, QUOCHIE B	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 06/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment

Application No.

09/918,394

Examiner

Quochien B. Vuong

Applicant(s)

MITTAL, GAURAV

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 28 November 2006.
- (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Quochien B. Vuong 6/25/07

QUOCHIEN B. VUONG
PRIMARY EXAMINER

571-272-7902

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.